

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

LEWIS COSBY, on behalf of himself)	
and all others similarly situated,)	CLASS ACTION
)	
Plaintiff,)	
)	
v.)	No. 3:16-cv-00121
)	
DELOY MILLER, SCOTT M. BORUFF,)	JURY TRIAL DEMANDED
PAUL W. BOYD, CHARLES M. STIVERS,)	
DAVID M. HALL, MERRILL A. McPEAK,)	
JONATHAN S. GROSS, DAVID J. VOYTICKY,)	
DON A. TURKLESON, GERALD HANNAHS,)	
MARCEAU N. SCHLUMBERGER, BOB G.)	
GOWER, JOSEPH T. LEARY, WILLIAM B.)	
RICHARDSON, CARL E. GIESLER, JR.,)	
A. HAIG SHERMAN, and KPMG, LLP,)	
)	
Defendants.)	

**NOTICE REGARDING DISCUSSION OF PRIVATE SECURITIES LITIGATION
REFORM ACT AND STATUTORY POSTPONEMENT OF DISCOVERY**

Counsel for Plaintiff Lewis Cosby (“Plaintiff”) and Counsel for Defendant KPMG, LLP (“KPMG”) conferred by telephone on October 5, 2016 and October 6, 2016. During those conferences, Plaintiff and KPMG discussed the deadlines set forth under the Private Securities Litigation Reform Act (“PSLRA”). Plaintiff and KPMG agreed that the statutory deadlines may require deviation from the Court’s standard scheduling order, and that the statutory deadlines are applicable to the claims made here.

On March 30, 2016, Plaintiff published in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported class of both the pendency of the action as well as the date by which any purported class member may move for appointment as lead plaintiff (the “Notice”). 15 U.S.C. § 78u-4(a)(3)(A)(i).

In accordance with the PSLRA, within 60 days of the Notice, any purported class member may move for appointment as lead plaintiff, and such a motion was made in this action on May 31, 2016 (Docket Nos. 11, 12). 15 U.S.C. § 78u-4(a)(3)(A)(i).

In accordance with the PSLRA, within 90 days of the Notice, the Court shall consider any motion made by a purported class member in response to the Notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the Court determines to be most capable of adequately representing the interests of class members (the “Lead Plaintiff”), 15 U.S.C. § 78u-4(a)(3)(B), and the Lead Plaintiff shall then, subject to the approval of the Court, select and retain counsel to represent the class. 15 U.S.C. § 78u-4(a)(3)(B)(v). In this matter, the motion remains undecided because the Court held motions in abeyance pending a decision regarding Motions to Remand in related actions. (Docket No. 20). Without an appointed Lead Plaintiff, the parties do not yet know what pleading will be the “operative complaint” for this matter.

Under the PSLRA, discovery is stayed pending any motion to dismiss. 15 U.S.C. § 78u-4(b) (3). The Court issued an order on September 21, 2016 setting forth certain discovery deadlines (Docket No. 21), and ordered the parties to attend a status conference on October 25, 2016 (Docket Text Entry).

Plaintiff and KPMG discussed the following issues to be resolved:

1. Plaintiff and KPMG discussed that the Court’s Scheduling Order issued September 21, 2016 is premature at this time, given the statutory deadlines under the PSLRA.
2. Among the issues contemplated to be discussed at the October 25, 2016 status conference are the following:

- a. Ruling on the pending Motion for Appointment of Co-Lead Plaintiffs and Approval of their Selection of Lead Counsel (Docket No. 11).
- b. A deadline by which the Lead Plaintiff should either file a consolidated amended complaint or designate a previously-filed complaint as the operative complaint, which complaint will become the “Operative Complaint.” The Operative Complaint shall supersede the Initial Complaint and all complaints in any related action. Plaintiff and KPMG recommend that this deadline be within 30 days of the entry of the Order Appointing the Lead Plaintiff.
- c. A deadline by which the Defendants shall answer, move to dismiss, or otherwise respond to the Operative Complaint. Plaintiff and KPMG recommend that the deadline be within 30 days of the filing of the Operative Complaint, and that if all Defendants have not been served with process, Defendants shall answer, move to dismiss, or otherwise respond to the Operative Complaint within 30 days of the date the last Defendant is served.
- d. Setting remaining deadlines following resolution of any motion to dismiss.

3. Pursuant to the PSLRA, Plaintiff and KPMG are in agreement that any discovery against any party, including any planning conference required by Federal Rule of Civil Procedure 26(f), any initial disclosures under Federal Rule of Civil Procedure 26(a)(1), and any written discovery, depositions, examinations, or other discovery permitted under the Federal

Rule of Civil Procedure will not be conducted pending further direction from the Court at the status conference.

Respectfully submitted,

s/Paul S. Davidson

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CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2016, a copy of the foregoing was filed electronically and served via the Court's CM/ECF system on the following:

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